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10/505,208

08/19/2004

Roland Belser

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EXAMINER

FRANTZ, JESSICA L

ART UNIT

PAPER NUMBER

3746

MAIL DATE

DELIVERY MODE

05/15/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/505,208

Applicant(s)

BELSER, ROLAND

Examiner

Jessica L. Frantz

Art Unit

3746

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☒ Claim(s) 6-14 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 August 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 8/19/2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: adjustable choke 39. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

2. Claims 6-14 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from another multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims 6-14 have not been further treated on the merits.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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4. Claim 2 recites the limitation "the tank volume 13" in the last two lines of the claim. There is insufficient antecedent basis for this limitation in the claim.

5. Claims 4 and 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In the written description and drawings, the applicant has described the first actuator unit 4 receives pressurized fluid from the working line 7 and urges the pump towards its maximum pivot angle whereas the second actuator unit 5 contains the pressure chamber 21 and urges the pump towards the minimum pivot angle. However, it appears in the claims the Applicant has placed the wrong reference numbers for the actuators. Therefore, the Examiner for the purpose of this Office Action will go by the reference character provided in both the written description and drawings. Therefore, in claim 4, "the control pressure acting in the control pressure chamber (21) of the actuator (4, 5).... acts on a first actuator (5) of the actuator unit (4, 5)" and in claim 5, "the actuator unit (4, 5) comprises a second actuator (4) which is pressurized with the pressure of the delivery side working line (7) and adjusts the pump (2) in the direction of greater delivery volume."

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stangle DE 4329164 in view of Krebs 4,810,171. Stangle teaches invention substantially as claimed and as described in the instant application including a regulatory device for a pump (2) with adjustable delivery volume, with a control valve unit (not labeled but shown in figure 1) to regulate a control pressure acting in a control pressure chamber (16) of an actuator (3), where the control valve unit comprises a threshold value control valve (35) subjected to the pressure of a delivery-side working line (9), and a delivery flow control valve (17) which is pressurized at a comparison pressure connection (not labeled, see figure 1) with a consumer input pressure taken from a consumer supply line (9) and at a control pressure measurement connection (22) with a control pressure countering the consumer input pressure. Stangle further teaches a control pressure acting in the control pressure chamber of the actuator, as the control pressure resetting the delivery volume of the pump, acts on a first actuator (13) of the actuator unit and a second actuator (12) which is pressurized with the pressure of the delivery-side working line and adjusts the pump in the direction of greater delivery volumes as clearly shown in figure 1. Stangle fails to teach the following claimed limitation that are taught by Krebs: control pressure supply connection (not labeled, see figure 1) of the delivery flow control valve (16) can be connected variably by the threshold value control valve (18, 15) with the delivery-side working pressure line. Krebs teaches a variably connected valve is preferable because it allows the system to better control the pressures in the working lines and the output power of the pump (see Krebs column 3, lines 32-39 and line 59- column 4, line 2).

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Krebs further teaches when pressure falls below a threshold value which can be set via the threshold value control valve, the control pressure chamber of the actuator is connected with a tank volume (see column 3, lines 32-39) and when the threshold value is exceeded, the control pressure chamber of the actuator can be connected variably with the delivery-side working line depending on the pressure difference between the control pressure present at the control pressure measurement connection and the consumer input pressure (see Krebs column 3, line 59- column 4, line 2). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have provided the invention of Stangle with the variability of Krebs because it allows the system to better control the pressures in the working lines and the output power of the pump (see Krebs column 3, lines 32-39 and line 59- column 4, line 2).

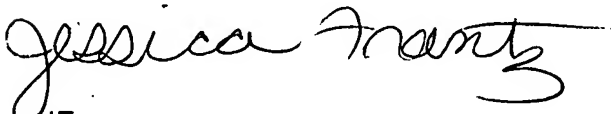
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jessica L. Frantz whose telephone number is 571-272-5822. The examiner can normally be reached on Monday through Friday 8:30a.m. - 5:00p.m. E.S.T..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on 571-272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


JF



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